

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 841 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and  
MR.JUSTICE A.M.KAPADIA

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STATE OF GUJARAT

Versus

BHAVANI CONSTRUCTIONS

Appearance:

MR BY MANKAD AGP for appellants.

MR G.T.DAYANI for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and  
MR.JUSTICE A.M.KAPADIA

Date of decision: 16/04/98

ORAL JUDGEMENT (Per J.N. Bhatt, J.):

Learned advocate Mr. Dayani for the respondent seeks permission to withdraw the original suit being Special Civil Suit No.304 of 1988 filed by the respondent/original plaintiff. In the facts and circumstances, permission to withdraw the original suit unconditionally is granted and as a result of it the impugned order of appointment of sole arbitrator would not survive and, therefore, obviously, the appeal challenging that order also would not assume any further survival value. In the circumstances, this appeal stands disposed of as having become infructuous on the ground of the dismissal of the original suit as having been withdrawn unconditionally in view of the provision of Order 23 Rule 1 (4) (b) of the Civil Procedure Code, 1908. No order as to costs.